

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CENTRAL VALLEY EDEN
ENVIRONMENTAL DEFENDERS, LLC,

Plaintiff,

v.

BUILDING MATERIAL
DISTRIBUTORS, INC.,

Defendant.

Case No. 2:22-cv-00509-JDP

ORDER GRANTING PLAINTIFF'S MOTION
TO AMEND AND DENYING AS MOOT
DEFENDANT'S MOTION TO DISMISS

ECF Nos. 10 & 26

Defendant previously filed a motion to dismiss plaintiff's first amended complaint. ECF No. 10. On August 4, 2022, after defendant's motion was fully briefed, plaintiff filed a motion for leave to file a second amended complaint. ECF No. 26. To date, defendant has not filed a response to plaintiff's motion.

Under the court's local rules, a responding party is required to file an opposition or statement of non-opposition to a motion no later than fourteen days after the date it was filed. E.D. Cal. L.R. 230(c). A responding party's failure to timely file an opposition may be construed as a non-opposition to the motion. *Id.* Given that defendant has not filed an opposition to plaintiff's motion and that leave to amend should be freely given, Fed. R. Civ. P. 15(a)(2), plaintiff's motion to amend is granted.

Accordingly, it is hereby ORDERED that:

1. Plaintiff's motion for leave to file a second amended complaint, ECF No. 26, is granted.
2. Plaintiff shall file a copy of its second amended complaint, *see* ECF No. 26-1 at 7-40, including any exhibits, within seven days of the date of this order.
3. The September 8, 2022 hearing on plaintiff's motion to amend is vacated.
4. Defendant's motion to dismiss the first amended complaint, ECF No. 10, is denied as moot.
5. Defendant shall file a response to plaintiff's second amended complaint within twenty-eight days of the date of this order.

IT IS SO ORDERED.

Dated: August 24, 2022


JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE